ADT, LLC d/b/a ADT Security Services *and* International Brotherhood of Electrical Workers, Local Union 43. Cases 03–CA–184936 and 03–CA–192545

February 27, 2020

DECISION AND ORDER

BY CHAIRMAN RING AND MEMBERS KAPLAN AND EMANUEL

On August 4, 2017, Administrative Law Judge Michael A. Rosas issued the attached decision. The Respondent filed exceptions, a supporting brief, and a reply brief. The Charging Party filed an answering brief. The General Counsel filed an answering brief, cross-exceptions, a brief in support of cross-exceptions, and a reply brief.

The National Labor Relations Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions only to the extent consistent with this Decision and Order.[1]

This case arises from the Respondent's unilateral decision to implement, temporarily, a mandatory 6-day workweek at its Albany and Syracuse, New York facilities for service and installation technicians covered by collective-bargaining agreements between the Respondent and the International Brotherhood of Electrical Workers, Local Union 43 (the Union). For the reasons discussed below, we find, contrary to the judge, that the Respondent did not violate Section 8(a)(5) and (1) of the National Labor Relations Act by unilaterally implementing a 6-day workweek for service and installation technicians at both the Albany and Syracuse facilities. Because the Respondent had no duty to bargain over the change to a 6-day workweek, and because the Union communicated to the Respondent that it was requesting information solely for the purpose of bargaining about that change, we also reverse the judge's finding that the Respondent violated Section 8(a)(5) and (1) by unreasonably delaying in providing the Union with the requested information.[2] We also find that the Respondent did not violate Section 8(a)(5) and (1) of the Act within the meaning of Section 8(d) by modifying its collective-bargaining agreements with the Union when it implemented the 6-day workweek. Accordingly, we dismiss those complaint allegations. However, we agree with the judge, for the reasons he states, that the Respondent violated Section 8(a)(5) and (1) by bypassing the Union and dealing directly with employee Michael Sopok when it granted him an exemption from the mandatory 6-day workweek.[3]

I. FACTS

The Respondent installs and services residential and commercial security systems. Since 1968, the Respondent has had collective-bargaining agreements with the Union (the Agreements) covering service and installation technicians at its Albany and Syracuse facilities.[4] Article 6, section 1 of the Agreements defined a "normal work schedule" for service technicians as

> a shift of eight and one-half hours with a thirty-minute lunch period comprising of [sic] five consecutive days, Monday through Saturday between the hours of 8:00 a.m. and 12:00 midnight. There will also be a four-day workweek comprised of ten and one half hour shifts, with a thirty-minute lunch period, between the hours of 8:00 a.m. and 12 midnight, Monday through Friday. Customer needs may periodically make it necessary for work to be performed beginning at 7:00 a.m. The Company will first seek qualified volunteers to perform such work. If there are no qualified volunteers the least senior qualified person will be assigned to perform the work.

Article 6, section 1 of the Albany Agreement provided that installation technicians

> may be scheduled for any eight-hour period between 7:00 a.m. and 5:30 p.m. in any given day between Monday and Friday. Customer needs may periodically make it necessary to add an additional shift for residential installers from Tuesday through Saturday. The Company will first seek qualified volunteers to perform

[1] We shall amend the judge's conclusions of law and modify his recommended Order to conform to the violation found. We shall substitute a new notice to conform to the Order as modified.

[2] See, e.g., *American Stores Packing Co.*, 277 NLRB 1656, 1658–1659 (1986); *Emery Industries*, 268 NLRB 824, 824–825 (1984); see also *NLRB v. Truitt Mfg. Co.*, 351 U.S. 149, 152 (1956) (holding that the duty to furnish information derives from the statutory duty to bargain in good faith); *FirstEnergy Generation, LLC v. NLRB*, 929 F.3d 321, 334 (6th Cir. 2019) (finding that because the employer did not have a duty to bargain over a particular subcontracting decision, it had no duty to provide the Union with information related to that decision).

[3] Sopok worked out of the Albany facility. Because the violation for dealing directly with Sopok is the only unfair labor practice violation in this case, we shall limit the notice-posting remedy to the Albany facility. See *Marriott Corp.*, 313 NLRB 896, 896 (1994).

[4] The most recent collective-bargaining agreement covering the Albany unit (the Albany Agreement) was effective from June 11, 2015 to June 10, 2018. The most recent collective-bargaining agreement covering the Syracuse unit (the Syracuse Agreement) was effective from June 11, 2016, to June 10, 2019.

> such work. If there are no qualified volunteers then the least senior qualified person will be assigned to perform the work.

Article 6, section 1 of the Syracuse Agreement provided that installation technicians

> may be scheduled for any eight-hour shift between 7:00 a.m. and 5:30 p.m. in any given day between Monday and Friday. Customer needs may periodically make it necessary for work to be performed on a second shift and/or Saturdays. The Company will first seek qualified volunteers to perform such work. If there are no qualified volunteers then the least senior qualified person will be assigned to perform the work.

The overtime provision in Article 6, section 3 of the Agreements provided that

> [a]ll time worked daily in excess of eight (8) hours in a scheduled 5 x 8 hour workweek, in excess of ten (10) hours in a 4 x 10 hour workweek, or weekly in excess of forty (40) hours, or on scheduled days off shall be compensated for at one and one-half (1½) times the employee's regular straight time hourly rate.

In addition, Article 1, section 2 of the Agreements provided that "[t]he operation of the Employer's business and the direction of the working force including . . . to determine the reasonable amount and quality of work needed . . . is vested exclusively in the Employer, subject, however, to the provisions of this agreement."

In 2016, the Apollo Group purchased the Respondent and merged it with Protection One, another Apollo Group subsidiary. Subsequently, the Apollo Group decided to apply to the Respondent, on a nationwide basis, Protection One's customer retention policy of responding to 75 percent of service calls within 24 hours.

Service and installation technicians' regular schedule was a 40-hour, 5-day workweek. On September 7, 2016,[5] the Respondent emailed technicians and the Union's president, Patrick Costello, announcing that it would be implementing a mandatory 6-day workweek in Albany and a mandatory biweekly 6-day workweek in Syracuse for all technicians in order to meet new "customer service targets" resulting from the Respondent's integration with Protection One. The email added that the 6-day workweek would begin on September 22 and would be in effect every week at the Albany facility and the second and fourth week of each month at the Syracuse facility until the "market achieves the desired target which the manager will post locally for each market." The Union protested the Respondent's decision, demanded that the Respondent rescind it, and asserted that the Respondent's failure to bargain over the change was an unfair labor practice. Nevertheless, the Respondent implemented the decision. It maintained a 6-day workweek for technicians for approximately 1 month at the Syracuse facility and until December 2016 or January 2017 at the Albany facility.[6]

II. ANALYSIS

The General Counsel alleges that the Respondent violated Section 8(a)(5) and (1) by failing and refusing to bargain with the Union regarding implementing a 6-day workweek for service and installation technicians at the Albany and Syracuse facilities. The General Counsel also alleges that the Respondent violated the Act under a different theory when it implemented a 6-day workweek for Albany service technicians, Albany installation technicians, and Syracuse service technicians. The General Counsel asserts that by doing so, the Respondent modified the Agreements without the Union's consent and thereby failed to continue in effect all the terms of the Agreements as required by Section 8(d), in violation of Section 8(a)(5) and (1) of the Act.[7]

The Respondent points out that the Agreements granted it the authority to determine the amount of work needed to conduct its business, to modify technicians' work schedules, and to assign technicians to work on scheduled days off at time-and-a-half pay. This combination of provisions, the Respondent asserts, authorized it to implement a 6-day workweek, and therefore it did not violate the Act by doing so.

As the Board has explained, unilateral-change cases and contract-modification cases

> are fundamentally different in terms of principle, possible defenses, and remedy. In terms of principle, the 'unilateral change' case does not require the General Counsel to show the existence of a contract provision; he need only show that there is an employment practice concerning a mandatory bargaining subject, and that the employer has made a significant change thereto

[5] All subsequent dates are in 2016 unless otherwise stated.

[6] Albany technicians worked Saturdays in addition to their regular Monday through Friday schedules, while Syracuse technicians worked one of their scheduled days off.

[7] The judge found the implementation of a 6-day workweek unlawful with respect to all technicians, but his analysis addressed only the General Counsel's unilateral-change allegations. The General Counsel cross-excepts to the judge's failure to consider the contract-modification allegations in the complaint regarding both groups of Albany technicians and the Syracuse service technicians, but not the Syracuse installation technicians—doubtless because language in art. 6, sec. 1 of the Syracuse Agreement expressly provided that installation technicians may periodically have to work on Saturdays.

> *without bargaining*. The allegation is a *failure to bargain*. In the 'contract modification' case, the General Counsel must show a contractual provision, and that the employer has modified the provision. The allegation is a failure to adhere to the contract. . . . [T]he issue [in a contract modification case] is whether the contract *forbade* the conduct. In the unilateral change cases, the issue is whether the contract *privileges* the conduct.

Bath Iron Works Corp., 345 NLRB 499, 501-502 (2005) (emphasis in original), affd. sub nom. *Bath Marine Draftsmen's Assn. v. NLRB*, 475 F.3d 14 (1st Cir. 2007). "[A] remedy for a unilateral change is to bargain; the remedy for a contract modification is to honor the contract." Id. at 501. Unlike an employer that unlawfully modifies a contract, an employer that implements an unlawful unilateral change only needs to restore the status quo ante until the parties reach an impasse in bargaining. Id. at 503. Because the remedies are mutually exclusive, an allegedly unlawful employer decision cannot be *both* a unilateral change *and* a contract modification. Accordingly, the General Counsel has alleged these theories in the alternative. For the following reasons, we reject them both.[8]

A. The Unilateral-Change Allegations

The Board recently announced that it would apply the "contract coverage" standard to evaluate the merits of an employer's defense that contractual language privileged it to make a disputed unilateral change without further bargaining with a union. See *MV Transportation, Inc.*, 368 NLRB No. 66, slip op. at 1–2 (2019). The Board decided to apply the "contract coverage" standard retroactively in all pending cases. Id., slip op. at 2. Accordingly, we do so here.

Under contract coverage, the Board examines "the plain language of the collective-bargaining agreement to determine whether action taken by an employer was within the compass or scope of contractual language granting the employer the right to act unilaterally." Id. In doing so, "the Board will give effect to the plain meaning of the relevant contractual language, applying ordinary principles of contract interpretation." Id., slip op. at 11. Cognizant of the fact that "'a collective bargaining agreement establishes principles to govern a myriad of fact patterns'" and that "'bargaining parties [cannot] anticipate every hypothetical grievance and . . . address it in their contract,'" the Board stated that it "will not require that the agreement specifically mention, refer to or address the employer decision at issue." Id., slip op. at 11 (quoting *NLRB v. Postal Service*, 8 F.3d 832, 838 (D.C. Cir. 1993) (alterations in *MV Transportation*)). "Where contract language covers the act in question, the agreement will have authorized the employer to make the disputed change unilaterally, and the employer will not have violated Section 8(a)(5)." Id.

We find that the Respondent's implementation of a 6-day workweek for technicians at both the Albany and Syracuse facilities was within the compass or scope of language in the Agreements granting the Respondent the right to take that action unilaterally. Article 6, section 3 of the Agreements provided for payment of overtime wages for work performed "weekly in excess of forty (40) hours, or on scheduled days off." Article 1, section 2 of the Agreements vested in the Respondent the exclusive right "to determine the reasonable *amount* . . . of work needed." Read together, these provisions authorized the Respondent to determine the amount of work it needed the technicians to perform and to require its technicians to work in excess of 40 hours a week or on scheduled days off to accomplish that work. Accordingly, we find that the Agreements covered the Respondent's decision to implement, temporarily, a 6-day workweek for service and installation technicians in Albany and Syracuse, and the Respondent did not violate Section 8(a)(5) and (1) by doing so without bargaining with the Union.[9]

B. The Contract-Modification Allegations

To determine whether an employer has unlawfully modified a contract by failing to adhere to its terms, the Board applies the "sound arguable basis" standard. *Bath Iron Works*, 345 NLRB at 501–502. Under that standard, if "an employer has a 'sound arguable basis' for its interpretation of a contract and is not 'motivated by union animus or . . . acting in bad faith,' the Board ordinarily will not find a violation." Id. at 502. The employer's interpretation need not be the only reasonable one in or-

[8] The Respondent also defends against the unilateral-change allegations on the basis that its implementation of a 6-day workweek did not constitute a material, substantial, and significant change in the technicians' terms and conditions of employment. For the reasons stated by the judge, we reject that defense.

[9] Additional contractual language further supports our finding as to the Albany and Syracuse installation technicians. Art. 6, sec. 1 of the Albany Agreement provided that "[c]ustomer needs may periodically make it necessary to add an additional shift for residential installers from Tuesday through Saturday," and art. 6, sec. 1 of the Syracuse Agreement similarly provided that "[c]ustomer needs may periodically make it necessary for work to be performed on a second shift and/or Saturdays." Although the Agreements provided that the Respondent "will first seek qualified volunteers to perform such work," performance of the work was compulsory: the Agreements provided that "[i]f there are no qualified volunteers then the least senior qualified person will be assigned to perform the work." Plainly, these provisions granted the Respondent the right to periodically require installation technicians to work an extra shift on a 6th day.

der to pass muster under the "sound arguable basis" standard; it is sufficient that its interpretation is "colorable." Id. at 503. If an employer presents a reasonable interpretation of the relevant contractual language, and the General Counsel does likewise, the Board "will not enter the dispute to serve the function of arbitrator in determining which party's interpretation is correct." *NCR Corp.*, 271 NLRB 1212, 1213 (1984). Under those circumstances, the employer will not have violated the Act. See id.

We find that the Respondent had a sound arguable basis for interpreting the Agreements as giving it the right to implement a 6-day workweek for Albany service and installation technicians and Syracuse service technicians. Preliminarily, no party claims that the Respondent implemented a 6-day workweek for anything other than legitimate business reasons—i.e., that it was motivated by animus or acting in bad faith. And its interpretation of the relevant contract language was certainly reasonable. As discussed in detail above in connection with the General Counsel's unilateral-change allegations, Articles 1 and 6 of the Agreements, read together, granted the Respondent the right to modify technicians' regular work schedules by requiring them to work a 6-day workweek. The Agreements required the Respondent to pay technicians time-and-a-half for work on scheduled days off, but it is undisputed that the Respondent paid technicians the appropriate overtime rate during the temporary 6-day workweek period.

The General Counsel argues that the Respondent failed to follow the overtime provisions in the contract, which require the Respondent to seek volunteers when overtime work is necessary before assigning the work to the least senior qualified employee. The Respondent, however, was in an "all hands on deck" situation, in which it needed every available employee to perform overtime work in order to meet its customer service targets. It would have been nothing more than a formality for the Respondent to have sought volunteers when it was assigning overtime to all of the technicians, whether they would have volunteered or not.[10]

Accordingly, we find that the Respondent adhered to the Agreements when it implemented a 6-day workweek, and we therefore dismiss the allegations that it violated Section 8(a)(5) and (1) within the meaning of Section 8(d) of the Act.

AMENDED CONCLUSIONS OF LAW

1. The Respondent, ADT, LLC d/b/a ADT Security Services, is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.
2. International Brotherhood of Electrical Workers, Local Union 43 is a labor organization within the meaning of Section 2(5) of the Act.
3. The Respondent has violated Section 8(a)(5) and (1) of the Act by bypassing the Union and dealing directly with a unit employee regarding his terms and conditions of employment.
4. The above unfair labor practice affects commerce within the meaning of Section 2(6) and (7) of the Act.
5. The Respondent has not otherwise violated the Act as alleged in the complaint.

ORDER

The Respondent, ADT, LLC d/b/a ADT Security Services, Albany and Syracuse, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Bypassing the Union and dealing directly with unit employees regarding their terms and conditions of employment.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its Albany, New York facility copies of the attached notice marked "Appendix."[11] Copies of the notice, on forms provided by the Regional Director for Region 3, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site,

[10] In a contract-modification case, "the Board may examine the past practice of the parties as to the interpretation and implementation of the contractual language in question, in order to determine the parties' intent." *Comau, Inc.*, 364 NLRB No. 48, slip op. at 5 fn. 16 (2016). A memo included in the record shows that, on a previous occasion, the Respondent sought volunteers to work 1 scheduled day off per month for 2 months but added that it may resort to "mandatory overtime" should it not "get enough volunteers." There is no indication that the Union protested this earlier, comparable decision by the Respondent. Indeed, at the hearing, Union President Costello testified that employees on a Monday through Friday schedule have worked on Saturdays, and he conceded that "the contract gives the employer the right to schedule work on a day off." This evidence further supports the Respondent's reasonable interpretation of the Agreements.

[11] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the Albany facility, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at that facility at any time since September 22, 2016.

(b) Within 21 days after service by the Region, file with the Regional Director for Region 3 a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

IT IS FURTHER ORDERED THAT the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. February 27, 2020

John F. Ring, Chairman

Marvin E. Kaplan, Member

William J. Emanuel, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT bypass the Union and deal directly with unit employees regarding their terms and conditions of employment.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

ADT, LLC D/B/A ADT SECURITY SERVICES

The Board's decision can be found at http://www.nlrb.gov/case/03-CA-184936 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

Alicia E. Pender, Esq., for the General Counsel.
Jeremy C. Moritz, Esq. (Ogletree, Deakins, Nash, Smoak & Stewart, P.C.), of Chicago, Illinois, for the Respondent.
Bryan T. Arnault, Esq. (Blitman & King), of Syracuse, New York, for the Charging Party.

DECISION

STATEMENT OF THE CASE

MICHAEL A. ROSAS, Administrative Law Judge. This case was tried in Albany, New York, on June 13, 2017. Based on timely filed charges by the International Brotherhood of Electrical Workers, Local Union 43 (Union or Charging Party), the General Counsel issued a complaint alleging that ADT, LLC d/b/a ADT Security Services (ADT or the Respondent) violated Section 8(a)(5) and (1) of the National Labor Relations Act (the Act)[1] by failing and refusing to bargain collectively and in good faith with the Union in several respects. The dispute revolves around the Respondent's implementation on September 22, 2016 of a mandatory biweekly 6-day workweek for all service technicians in its Syracuse office and a mandatory 6-day workweek for all service and installation technicians in its Albany office without affording the Union an opportunity to bargain over such changes.[2] An additional issue arose when the Respondent allegedly bypassed the Union and dealt directly with an Albany office employee in granting him an exception from the new scheduling policy. Finally, it is alleged that the Re-

[1] 29 U.S.C. §§ 151–169.
[2] All dates are 2016 unless otherwise indicated.

spondent unreasonably delayed in fully responding to information requested by the Union relevant to the 6-day workweek scheduling change.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation with offices and places of business in Albany and Syracuse, New York, has been engaged in the installation and services of residential and commercial security systems. In conducting such business operations, the Respondent annually derives gross revenues in excess of $500,000 from the sale and retail alarm systems, and purchases and receives at said facilities goods valued in excess of $5000 directly from points outside the State of New York. The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Respondent's Operations

The Respondent was purchased by the Apollo Group in 2016. Subsequently, the Apollo Group merged the Respondent with another subsidiary, Protection One. As part of the consolidation, the Apollo Group decided to apply Protection One's customer retention policy of responding to 75 percent of service calls within 24 hours (the In Standard policy) to the Respondent on a nationwide basis.

During the period of time at issue, the following individuals were employed by the Respondent as supervisors within the meaning of Section 2(11) of the Act and as its agents within the meaning of Section 2(13) of the Act: Peter Bernard—Manager; Michael Kirk—Area General Manager; Michael Stewart—Regional HR Manager.

Prior to September, employees worked standard 8 a.m. to 4:30 p.m. shifts, five days per week, 40 hours total. The Respondent occasionally requested employees to work overtime beyond the end of their regular shifts or on regular days off, but did so in order of seniority. If necessary, all employees could be required to work overtime. However, backlogs were usually handled by a manager calling Patrick Costello, the Union's president and assistant business manager, and asking for volunteers. Costello would then call employees and offer the overtime opportunities based on seniority.

B. The Collective-Bargaining Agreements

As of September 2016, there were three technicians employees by the Respondent's Albany office. They comprised the Albany unit, which constituted the following unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time employees originally described in the certification dated November 20, 1968 (Case Number 3-RC-4533) classified by the Respondent as residential and small business installers, residential and small business high volume commissioned installers, residential and small business service technicians, employed by the Respondent at its facility in Albany, NY; but excluding all alarm service investigators, relief supervisors, all office clerical employees and professional employees, guards and supervisors, as defined in the Act; and excluding all commercial installers and commercial service unless the employees are employed by the Respondent and are located at, or are directly supervised by the Respondent's supervisors located at its Albany, NY facility.

As of September 2016, there were 12 technicians employed by the Respondent's Syracuse office. They comprised the Syracuse unit, which constituted the following unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time employees originally described in the certification dated November 20, 1968 (Case Number 3–RC–4533) classified by the Respondent as residential and small business installers, residential and small business high volume commissioned installers, residential and small business technicians, employed by the Respondent at its facility in Syracuse, NY, but excluding all alarm service investigators, relief supervisors, all office clerical employees and professional employees, guards and supervisors, as defined by the Act; and excluding all commercial installers and commercial service unless the employees are employed by the Respondent and are located at, or are directly supervised by the Respondent's supervisors located at, its Syracuse, NY facility.

The Respondent has recognized the Union as the exclusive collective-bargaining representative of the Syracuse and Albany units as reflected in successive collective-bargaining agreements (CBA), the most recent of which are effective from June 11, 2016, to June 10, 2019 as to the Syracuse unit, and June 11, 2015, to June 10, 2018 with respect to the Albany unit.[3]

The disputed scheduling provisions are set forth in identical versions of article 6 in the Syracuse and Albany CBAs. In pertinent part, the identical provisions establish a 40-hour employee workweek and 8-hour workday. The workweek is deemed to start on Wednesday and end on Tuesday, the same as the payroll week. Section 1 further defines the regular workweek as follows:

> The normal work schedule for the Service Department shall be a shift of eight and one-half hours with a thirty-minute lunch period comprising of five consecutive days, Monday through Saturday between the hours of 8:00 a.m. and 12:00 midnight. There will also be a four-day workweek comprised of ten and one half hour shifts, with a thirty-minute lunch period, between the hours of 8:00 a.m. and 12 midnight, Monday through Friday. Customer needs may periodically make it necessary for work to be performed beginning at 7:00 a.m. The Company will first seek qualified volunteers to perform

[3] Jt. Exh. 2–3.

such work. If there are no qualified volunteers then the least senior qualified person will be assigned to perform the work. Second shift will be defined as those shifts beginning at 12:00 noon and after. Advance notice of schedule changes will be given whenever possible, except in cases of emergency, such schedules shall be established one week in advance.

The Installation Department may be scheduled for any eight-hour period between 7:00 a.m. and 5:30 p.m. in any given day between Monday and Friday. Customer needs may periodically make it necessary for work to be performed on a second shift and/or Saturdays. The Company will first seek qualified volunteers to perform such work. If there are no qualified volunteers then the least senior qualified person will be assigned to perform the work. Such second shifts will occur between the hours of 7:00 a.m. and 12:00 midnight. Except in cases of emergency, such schedules shall be established one week in advance. Second shift will be defined as those shifts beginning at 12:00 noon and after.

Section 2 provides the Respondent with additional authorization regarding assignments outside of the regular schedule:

In accordance with Section 1 of this article, the Employer will establish 12:00 noon to 8:30 p.m. for trouble and maintenance requirements. Volunteers among qualified personnel will be solicited. If no qualified volunteers exist, assignment will be based on reversed seniority among qualified personnel. Assignment (or volunteer) will be for a minimum of six (6) months. The Employer reserves all rights under Section 1 of this article.

Sections 3 and 4 provide for the assignment and compensation of overtime and emergency overtime work, respectively:

All time worked daily in excess of eight (8) hours in a scheduled 5 x 8 hour workweek, in excess of ten (10) hours in a 4 x 10 hour workweek, or weekly in excess of forty (40) hours, or on scheduled days off shall be compensated for at one and one-half (1-1/2) times the employee's regular straight time hourly rate. No time worked except for work performed on paid holidays, as hereinafter, listed in Article 8, shall under any circumstances be compensated for at more than one and [one-half] (1-1/2) times the straight time hourly rate. There shall be no compounding, duplicating or pyramiding of overtime payments of any description. In any cases when an employee is not able to complete an assigned job during scheduled work hours he will notify his Supervisor by 1:30 p.m. of that day. At such point a decision shall be made as to when the job will be completed if the job was scheduled to be completed that day.

Emergency overtime calls from home shall be compensated at one and one-half (1½) times the employee's regular hourly rate of pay from the time the employee leaves his home to the time reasonably required for him to return home. Employees on-call will receive at least three (3) hours at overtime rate each time they are notified, 3respond to a call and return home. If they are sent on another call before returning home, the time is added. (Example: Employee is called out, responds to the site and fixes the problem within two (2) hours. He receives a minimum of three (3) hours pay at the overtime rate. If he is beeped prior to returning home and responds to another call for an additional hour he would be paid three (3) hours minimum for the first call and one (1) hour for the second call. Total call out pay is four (4) hours overtime.)

C. The 6-Day Workweek

The mandatory nationwide 6-day workweek was prompted by ADT's acquisition by Apollo and ADT's subsequent merger with Protection 1 on September 1. Based on Protection 1's superior customer retention rate, Apollo instructed ADT to adopt Protection 1's policy requiring that 75 percent of service calls be responded to within 24 hours. Under that directive, the mandatory overtime was applicable to all employees. There was no limitation on ADT's ability to schedule work 7 days a week for 8 hours each day. The only exceptions were for those attending school classes paid for by ADT.[4]

On September 6, Kirk communicated the rollout of the ADT integration with Protection 1 in an email to ADT managers and supervisors:

Team,
With the integration of ADT and Protection 1 we have been given new customer service targets of 1.69 days on all new installations and service tickets created. This equates to being able to deliver, 24-hour customer service to our new and existing customers 75% of the time which is a great objective to meet, while understanding that 25 percent of our customers may not be able to be available within 24 hours. While I understand that each market is different, and we need to approach each market as a separate entity and make decisions that are based solely on each location. Until we meet the present target, we will be implanting a mandatory 6-day workweek in the following markets beginning on Thursday, September 22 and will continue until each market achieves the desired target which the manager will post locally for each market. I understand that this is a burden on some of our technicians and the only exception at this time are those technicians that are currently attending classes and are enrolled in higher education.

Allentown Pa
Wilkes-Barre Pa
Bridgeville Pa
Albany NY

The following districts will implement a mandatory 6 Day workweek on Thursday, September 22 2016 for the second and fourth week of every month until the target is achieved and can change to weekly if needed with no additional notice.

Syracuse NY
Buffalo NY
Erie Pa
Altoona Pa
Lancaster Pa

[4] James Nixdorf, ADT's director of labor relations, oversee the processing of disciplinary matters and CBAs. He testified about the changes, but professed little knowledge about the actual rollout.

> I appreciate your understanding and dedication to providing faster service to our customer and I truly appreciate your support, I am providing a two week notice to all technicians as I truly believe that this is the right thing to do! Please keep in constant communication with your manager and myself if you are confused as to why this critical initiative is important and why we need your immediate assistance and to see where we are to the target. Thank you for all that you do and keep those great customer service emails coming to me from your customers as I love to recognize great individual performances . . . You guys and girls are awesome. Thank you.

Kirk followed up 1 minute later with another email directing the "Team" to "get this in the hands of every technician no later than 9:00 AM tomorrow morning."[5] His email was forwarded to the technicians on September 7. Additionally, Stewart, the Respondent's regional human resources manager, forwarded the email to Costello, the Union's representative. During the conversation that followed, Costello asserted that the change violated the CBA and requested it be rescinded immediately. Stewart agreed to pass along Costello's view to the Respondent's hierarchy but doubted that the change would be rescinded.[6]

In the Albany location, the 6-day schedule was implemented during the week of September 22 and lasted until December or January 2017. In the Syracuse location, the biweekly 6-day workweek occurred over the course of nearly a month. During that time, Albany unit employees worked Saturdays in addition to their regular Monday through Friday schedules, while Syracuse unit employees worked their off day. Based on article 6 of the Syracuse CBA, Albany and Syracuse unit employees received 1-1/2 times regular compensation for working on their regular days off.

In Albany, David Madsen, an installation technician in the Albany branch, served as the Union's shop steward and reported to Costello. He worked the 6 days per week schedule for at least 6 Saturdays until December or January 2017. At the time, two technicians were out or going out on medical leave, which left Madsen and another employee as the only technicians available to work on Saturdays. As it turned out, Madsen was the only technician to work on Saturdays. He did not, however, file a grievance over the directive.

D. The Information Request

On September 19, prior to the scheduling change, Costello wrote to Stewart protesting ADT's unilateral decision to implement a 6-day workweek schedule:

> As I previously explained, Article 6 of the CBA explicitly and unambiguously provides for only four or five-day workweeks. At no point does the CBA authorize a 6-day workweek or allow ADT to change the agreed-upon schedule.

The letter further demanded ADT rescind the directive and asserted that the failure to bargain over the change constituted an unfair labor practice. The letter further requested the production by October 7 of a broad range of information relating to the decision-making, planning and implementation of the scheduling change.[7]

On October 6, Stewart responded to Costello that ADT was putting together a response to the September 19 information request and expected to provide it by October 14. Costello did not object to the revised production date but requested that Stewart immediately provide all of the responsive information in his possession.[8]

On October 13, Stewart replied to Costello by email. Stewart noted at the outset that ADT considered several of the requests vague, ambiguous or nonrelevant. Stewart then explained the purpose of the 6-day workweek as a measure to reduce a backlog of open work orders so the offices would be compliant with the company metric for customer service. To do so, each location was required to respond to customer's requests within 24 hours, 75 percent of the time. Stewart noted this was a standard also used by Protection-1 before the merger. Stewart attached a data set to the email, showing the backlog of open work orders in the Albany and Syracuse locations and also the reductions achieved. He declined, however, to provide information regarding ADT's interactions with other unions, claiming the information was not relevant. He did not provide further explanation or an answer to other questions as set out in the September 19th email.[9]

On October 24, Costello responded to Stewart's email of October 13. He explained that Stewart's response was insufficient and restated his argument as to why the requested information was relevant. Not having received a response to his October 24 information requests, Costello followed up with another letter and email to Stewart on November 18. He warned that if the information was not received by November 22 he would file an unfair labor practice charge.[10]

On December 15, Costello asked Stewart to send him "all the responses that you have generated concerning our most recent information requests."[11] Stewart responded on December 16 by providing a "Talking Points" memorandum given to all installation and service team managers.[12] Costello did not understand all of the information contained on the spreadsheets.

E. Direct Dealing

Michael Sopok, a technician in the ADT's Albany branch, learned of ADT's 6-day workweek directive along with the rest of the workforce on September 22. On that day, he told shop steward Madsen that he had a problem working on Saturdays because of his childcare situation but did not ask him to approach management. Sopok then called Peter Bernard, the installation team manager, about his dilemma.[13] Bernard forwarded Sopok's request to Kirk. Kirk asked that Sopok provide documentation relating to the childcare issue, which Sopok did. Kirk approved Sopok's request through Bernard. As a re-

[5] Jt. Exh. 1.

[6] Costello's credible testimony was not refuted. (Jt. Exh. 4; Tr. 25.)

[7] Jt. Exh. 5.

[8] Jt. Exh. 6.

[9] Jt. Exh. 7

[10] Jt. Exh. 10-13.

[11] Jt. Exh. 14.

[12] Jt. Exh. 15.

[13] It is not disputed that as a shop steward, Madsen did not have the authority to bargain with ADT.

sult, Sopok did not have to work the mandatory Saturday shift and was removed from the 6-day workweek schedule. However, a few weeks after submitting his request, Sopok's exemption was conditioned on an extended 5-day workweek, with up to 12 hours per day. As a result, he resigned.

Legal Analysis

1. unilateral change to a 6-day workweek in the Albany and Syracuse units

The complaint alleges that the Respondent violated Section 8(a)(5) of the Act on September 22 by imposing a mandatory 6-day workweek for unit employees in the Albany unit. Further, the Respondent is alleged to have violated the act by unilaterally imposing a biweekly 6-day workweek on employees in the Syracuse unit. The Respondent denies the allegations, claiming the issue is not a unilateral change, but rather a dispute between the Respondent and the Union over an interpretation of the contract. In support of their interpretation, the Respondent relies on the argument that Syracuse and Albany units have always permitted management to schedule work on regular days off, schedule mandatory overtime and require employees to work past the end of their shifts.

An employer violates Section 8(a)(5) and (1) of the Act if it makes material unilateral changes during the course of a collective-bargaining relationship on matters that are mandatory subjects of bargaining, "for . . . a circumvention of the duty to negotiate . . . frustrates the objectives of Section 8(a)(5) much as does a flat refusal." *NLRB v. Katz,* 369 U.S. 736, 743, 747 (1962); *United Cerebral Palsy of New York City*, 347 NLRB 603, 606 (2006).Items falling within the language of Section 8(d) are mandatory subjects of bargaining. *NLRB v. Borg-Warner Corp.*, 356 U.S. 342, 349 (1958). The Board has also held that "in order for a statutory bargaining obligation to arise with respect to a particular change unilaterally implemented by an employer, such change must be a 'material, substantial, and a significant' one affecting the terms and conditions of employment of bargaining unit employees." *Angelica Healthcare Services Group*, 284 NLRB 844, 853 (1987).

The work schedules of ADT's unit employees were vital aspects of working conditions and are mandatory subjects of bargaining. See *Meat Cutters, Local 189 v. Jewel Tea Co.,* 381 U.S. 676, 691 (1965); *Bloomfield Health Care Center*, 352 NLRB 252, 256 (2008). Moreover, the Board has long held changes similar to ADT's unilateral changes in a 6-day workweek as material and significant. In *Fall River Savings Bank*, the employer unilaterally changed scheduled work from a 5-day workweek to a 6-day workweek based on the rationale that the revision was a reasonable variation of past practices involving flexible work on Saturdays. The Board disagreed, finding that the change in working conditions amounted to a conversion from voluntary to mandatory overtime. 260 NLRB 911 (1982).

Similarly, in *Intracoastal Terminal, Inc.*, the Board held that changing a Monday through Friday workweek to Wednesday through Sunday was unlawful. The Board rejected the argument that changes in work schedules were insubstantial, even though they roughly amounted to the same number of hours the employees had worked under the previous schedule. The Board noted that it was axiomatic that "regular and overtime hours of work are vital aspects of working conditions" to be discussed with a bargaining units representative. 125 NLRB 359, 359–360, 367–368 (1959), enf. denied in relevant part on other grounds 286 F.2d 954 (5th Cir. 1961).

Nor is the impact of the change any less significant because it affected only a few members of the unit. See *Bloomfield Healthcare Center,* supra at 252 (unilateral change made to bargaining unit's schedule was significant even though it only affected a few members of the unit); *Georgia Power Co*., (unilateral change to scheduling violated Section 8(a)(5) even though it affected only one unit employee). Similarly, even a slight change in the amount of time worked per day can constitute a material change. See *Pepsi-Cola Bottling Co. of Fayetteville, Inc.*, 330 NLRB 134 (2000) (schedule change was a material and significant change because it resulted in route salesmen commencing their workdays 15 minutes earlier than they had before).

The Respondent's alteration of work schedules constituted a material, substantial and significant change in the terms and conditions of employment of the Albany units and, as such, was a mandatory subject for the purposes of collective bargaining. As such, the Respondent's failure to afford the Union an opportunity to bargain over the scheduling change violated Section 8(a)(5) and (1) of the Act.

2. Unilateral creation of exceptions in the Albany unit and direct dealing with a bargaining unit member

The General Counsel and Charging Party further allege that the Respondent, without prior notice to the Union or affording it an opportunity to bargain, also violated Section 8(a)(5) by not informing the Union of the change in schedule. Further, they allege the Respondent dealt directly with unit Michael Sopok, a unit employee, on September 22, creating an exception to the mandatory 6-day workweek policy for all service and installation technicians in the Albany unit. The Respondent denies the allegations, contends the exception granted to Sopok stemmed from a unique situation that he chose to raise directly with the Respondent, and was not intended to undermine the Union.

Direct dealing involves interaction with employees that bypasses the union about a mandatory subject of bargaining. *Mercy Health Partners*, 358 NLRB 566 (2012), citing *Champion International Corp.*, 339 NLRB 672, 673 (2003). The standard for direct dealing was laid out in *Permanente Medical Group*, 332 NLRB 1143, 1144 (2000), as "[a]n employer engages in unlawful direct dealing when (1) the employer communicates directly with union represented employees; (2) the discussion is for the purpose of establishing or changing wages, hours, and terms and conditions of employment or undercutting the union's role in bargaining; and (3) such communication is made to the exclusion of the union." Id. at 1144.

The Respondent argues that it did not engage in direct dealing with Sopok because there was neither a promise of a benefit nor issuance of a threat. It further argues that the prohibition of such interaction with employees would mean that it would have to negotiate with the Union over any trivial changes in shifts, hours or time off.

I disagree with the Respondent's belief that prohibiting interactions between management and employees about work

schedules would lead to mandatory negotiations with the Union over *any* change in shifts, hours or time off. Sopok's request stemmed from a unilateral and unexpected change made by the Respondent that deviated substantially from the bargaining agreement that unit members reasonably relied upon. It affected the entire bargaining unit. I would decline to extend this interpretation to situations involving shift changes or alterations occurring during the course of a bargaining agreement resulting from the normal course of business, and not stemming from any unilateral and unexpected modification of the terms and conditions of the bargaining agreement.

The Respondent's direct dealing with Sopok, a unit bargaining unit employee, in arranging an exception for him from the 6-day workweek schedule, bypassed the unit representative and undermined the union's role in bargaining. By granting a unit employee member an exception that could plausibly be interpreted as favorable treatment, the Respondent effectively undermined confidence in the Union by the bargaining group. In doing so, the Respondent violated Section 8(a)(5) and (1) of the Act by failing to meet and bargain exclusively with the bargaining representative of its employees before implementing a change to the terms and conditions of unit employees. See *Allied—Signal,* 307 NLRB 752, 753 (1992); *Northwest Graphics Inc. and Local 6-505-M*, 343 NLRB 84,176 (2004).

3. Delay in providing requested information to the union relating to the 6-day workweek

The General Counsel and Charging Party also allege that the Respondent failed to provide requested information in a timely manner. The Respondent contends that it met its obligation to supply information to the Union by providing the requested information or asserting legitimate objections to information requests deemed vague or ambiguous.

Under Section 8(d) of the Act, the Respondent has an obligation to provide the Union with requested information that is relevant and necessary to the Union's performance of its duties as collective-bargaining representative, including deciding whether to process grievances. *NLRB v. Acme Industrial Co.,* 385 U.S. 432, 435–436 (1967); *Centura Health St. Mary-Corwin Medical Ctr.*, 360 NLRB 689, 689 (2014). The applicable standard is whether there exists "a probability that such data is relevant and will be of use to the union in fulfilling its statutory duties and responsibilities as the employees' exclusive bargaining representative." See *Detroit Edison Co. v. NLRB*, 440 U.S. 301, 303 (1979) ("the duty to bargain collectively, imposed by Section 8(a) of the NLRA, includes a duty to provide relevant information requested by the union for the proper performance of its duty as the employees' bargaining representative").

In determining whether the requested information is or was probably relevant to the union's role, the Board has typically applied a liberal discovery-type standard. *Brazos Electric Power Cooperative*, 241 NLRB 1016(1979). When information sought concerns matters outside the bargaining unit, the union must establish the relevance of that information by making a special demonstration of relevance based on the logical foundation and a factual basis for the information. *Shoppers Food Warehouse Corp.*, 315 NLRB 258, 258 (1994). The Board need only find a probability that the requested information is relevant and would be useful to the union in carrying out its responsibilities. *Reiss Viking*, 312 NLRB 622, 625 (1993), citing *Postal Service*, 310 NLRB 391, 391–392 (1993).

Each of the Union's requests explained in detail how the information was going to be used in relation to the dispute. Neither the October 13th nor December 16th emails provided sufficient information relative to what was being sought by the Union. Stewart's response on October 13th proffered justifications for the change and provided a data set that seemed to answer parts of Costello's questions but it does not, as Stewart says "address all of the concerns raised" in the September 19th request. The December 16th communication appears to be an internally directed marketing document, apparently used by management to explain to their employees why they were to work longer hours. It is also the only document provided. The Respondent provided information in a haphazard manner over a 3-month period.

The Respondent notes than the time to respond is not delineated in the Act and the precedent is largely fact driven, differs on a case by case basis, and is based on the totality of circumstances surrounding the event. *Allegheny Power,* 339 NLRB 585, 587 (2003). The Respondent's delay in providing relevant information sought by the Union, when evaluated in conjunction with its unlawful unilateral change to work schedules, along with its direct dealing with a unit employee in carving out exceptions to its unlawful action, was unreasonable.

The Respondent also concedes that the information could have been forwarded to the Union earlier than December, but denies that the delayed production was unreasonable, driven by animus or resulted in harm to the Union. The Respondent also cites several decisions in which delays ranging from several months to almost a year were found neither unreasonable nor prejudicial to the Union. *Union Carbide Co*., 275 NLRB 197, 201 (1985); see also *Dallas & Mavis Forwarding Co*., 291 NLRB 980 (1988). These arguments lack merit. The Union became aware of the change in schedule only after the decision was made and announced to employees. When the Union attempted to respond, the Respondent was slow to act and provided insufficient information. Stewart's belated and incomplete reply to the Union's request for relevant information as it rolled out the unlawful change to unit employees' work schedules, was prejudicial and hampered the Union's ability to enforce the contract.

Finally, the Respondent asserted that some of the requests were vague or non-relevant without providing clarification and proceeded to provide only information that obliquely responded to the detailed requests made by the union. When an employer believes an information request is vague, however, it has the responsibility to request clarification. See *Keauhou Beach Hotel*, 298 NLRB 702,702 (1990) (employer may not simply refuse to comply with a request it deems overly broad, onerous or non-relevant). See also *Hospital Episcopal San Lucas*, 319 NLRB 54, 57 (1995) (employer is required to notify the Union of its objections to each request and as needed, ask for clarification).

Under the circumstances, the Respondent's repeated failure to meet its statutory obligation to timely provide the requested

information violated Section 8(a)(5) and (1) of the Act.

1 ADT, LLC d/b/a ADT Security Services is an employer within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent violated Section 8(a)(5) and (1) of the Act by unilaterally and without the consent of the Union when it:

(a) Changed the terms and conditions of employment in the Albany unit by imposing a 6-day workweek for service and installation technicians in that location.

(b) Changed the terms and conditions of employment in the Syracuse unit by imposing a biweekly 6-day workweek for the service technicians in that location.

(c) Refused to bargain with the Union by making changes to employees' terms and conditions of employment by unilaterally imposing a biweekly 6-day workweek for the installation technicians in the Syracuse unit without first giving the Union notice and an opportunity to bargain.

(d) Unilaterally created exceptions to the workweek policy for the Albany unit. And engaged in direct dealing with employees regarding mandatory terms and conditions of employment.

(e) Delayed in providing information to the Union necessary and relevant to its role as the employees' bargaining representative.

4. The aforementioned unfair labor practices by the Respondent affected commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[14]

ORDER

The Respondent, ADT LLC d/b/a ADT Security Services, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Unilaterally and without the consent of the Union imposing a 6-day workweek for service and installation technicians in the Albany unit, or otherwise changing employees' terms and conditions of employment as set forth in the Albany collective-bargaining agreement.

(b) Unilaterally and without the consent of the Union imposing a biweekly 6-day workweek for the service technicians in the Syracuse unit, or otherwise changing employees' terms and conditions of employment as set forth in the Syracuse collective-bargaining agreement.

(c) Refusing to bargain with the Union by making changes to employees' terms and conditions of employment by unilaterally imposing a biweekly 6-day workweek for the installation technicians in the Syracuse unit without first giving the Union notice and an opportunity to bargain.

(d) Unilaterally creating exceptions to the workweek policy for the Albany unit.

(e) Engaging in direct dealing with employees regarding mandatory terms and conditions of employment.

(f) Delaying in providing information to the Union that is necessary and relevant to its role as the employees' bargaining representative.

(g) Refusing to provide information to the Union that is necessary and relevant to its role as the employees' bargaining representative.

(h) In any like or related manner interfering with, restraining or coercing Respondent's employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) At the request of the Union, rescind the unlawful unilateral changes to the workweek for the Albany unit and Syracuse unit.

(b) Provide the Union with the information it requested on September 19 and October 24 that it has not already provided.

(c) Within 14 days after service by the Region, post at its facilities in Albany and Syracuse, New York, copies of the attached notice marked "Appendix."[15] Copies of the notice, on forms provided by the Regional Director for Region 3, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent since September 22, 2016.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn statement of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

Dated, Washington, D.C. August 4, 2017

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated

[14] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[15] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT unilaterally make changes to unit work schedules without consulting the bargaining representatives of the unit.

WE WILL NOT unilaterally bargain, negotiate or directly deal with individual members of the bargaining unit about the terms and conditions of employment without notifying and including the bargaining unit representatives.

WE WILL NOT fail or refuse or unreasonably delay in providing requested information to bargaining unit representatives when the information is necessary for the representatives to fulfill their duty to unit members.

WE WILL notify you that the workweek directive has been rescinded.

WE WILL notify you that the mandatory 6-day workweek order from our September 7, 2016 memorandum has been rescinded.

ADT, LLC D/B/A ADT SECURITY SERVICES

The Administrative Law Judge's decision can be found at http://www.nlrb.gov/case/03-CA-184936 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street S.E., Washington, D.C. 20570, or by calling (202) 273-1940.